

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #16	CCRB Case #: 201609318	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 11/06/2016 8:15 PM, Monday, 11/07/2016	Location of Incident: Atlantic Avenue and Waverly Avenue; 71st Precinct stationhouse	Precinct: 88	18 Mo. SOL 5/6/2018	EO SOL 5/6/2018	
Date/Time CV Reported Mon, 11/07/2016 7:37 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 11/07/2016 7:37 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Eric Bravo	09104	934530	088 PCT
2. POM Joel Paulino	26199	949456	088 PCT
3. POF Jessica Rodriguez	12458	956211	071 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Timothy Keane	25254	958745	088 PCT
2. SGT Boris Durets	769	938414	088 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Eric Bravo	Abuse: On November 6, 2016, at the intersection of Atlantic Avenue and Waverly Avenue in Brooklyn, Police Officer Eric Bravo interfered with § 87(2)(b)'s use of a recording device.	
B.POM Eric Bravo	Abuse: On November 6, 2016, at the intersection of Atlantic Avenue and Waverly Avenue in Brooklyn, Police Officer Eric Bravo frisked § 87(2)(b).	
C.POM Eric Bravo	Abuse: On November 6, 2016, at the intersection of Atlantic Avenue and Waverly Avenue in Brooklyn, Police Officer Eric Bravo searched § 87(2)(b).	
D.POM Joel Paulino	Abuse: On November 6, 2016, at the intersection of Atlantic Avenue and Waverly Avenue in Brooklyn, Police Officer Joel Paulino searched the vehicle in which § 87(2)(b) was an occupant.	
E.POF Jessica Rodriguez	Abuse: On November 7, 2016, at the 71st Precinct stationhouse, Police Officer Jessica Rodriguez did not process § 87(2)(b)'s complaint regarding officers.	
§ 87(4-b) § 87(2)(g)		

Case Summary

On November 7, 2016, § 87(2)(b) filed this complaint with the CCRB online.

At approximately 8:15 p.m. on November 6, 2016, § 87(2)(b) was pulled over by PO Eric Bravo and PO Timothy Keane of the 88th Precinct at the intersection of Atlantic Avenue and Waverly Avenue, in Brooklyn. § 87(2)(b) was stopped after allegedly making an illegal left turn onto Atlantic Avenue. PO Bravo asked § 87(2)(b) to provide his license and registration several times. § 87(2)(b) initially refused to provide these documents unless the officers explained why they had pulled him over. Eventually, though, he provided both his license and registration to PO Bravo.

§ 87(2)(b) then asked the officers if they were wearing body cameras. They replied that they were not. § 87(2)(b) then took out his cell phone to record the interaction himself. PO Bravo, however, reached into § 87(2)(b)'s vehicle and took the phone from his hand (**Allegation A**). He pulled § 87(2)(b) out of the vehicle by his arm. § 87(2)(b) did not fall down or sustain any injuries as a result of this action. PO Bravo then frisked and searched § 87(2)(b) (**Allegations B and C**).

PO Bravo and PO Keane summoned their supervisor, Sgt. Boris Durets, to the location. Sgt. Durets was accompanied by his operator, PO Joel Paulino. After Sgt. Durets verified the arrest, PO Bravo and PO Keane drove § 87(2)(b) to the 88th Precinct stationhouse. PO Paulino entered § 87(2)(b)'s vehicle and drove it to the stationhouse as well (**Allegation D**). At the stationhouse, PO Keane issued § 87(2)(b) summonses for § 87(2)(b). § 87(2)(b) was then released. When § 87(2)(b) returned to his vehicle, he found that items that he had left inside had been disturbed.

At approximately 3:00 p.m. on November 7, 2016, § 87(2)(b) traveled to the 71st Precinct stationhouse in order to file a complaint about the previous day's events. § 87(2)(b) spoke to PO Jessica Rodriguez of the 71st Precinct, who was working as the command's telephone switchboard operator. PO Rodriguez told him that if he wanted to file a complaint, he would have to call the CCRB directly (**Allegation E**). She then pointed to a poster that had the CCRB's contact information. § 87(2)(b) took down the CCRB's information and then left the stationhouse.

§ 87(2)(g)

No video footage was found for this incident.

This complaint is 93 days old as of February 8, 2017.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- As of February 6, 2017, § 87(2)(b) has not filed a notice of claim regarding this incident (See Board Review #01: Notice of Claim).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by [§ 87(2)(b)] [§ 87(2)(b)]
- PO Bravo has been a member of the service for twelve years. There are no substantiated CCRB allegations against him. He has been the subject of two complaints in two previous cases. These are the first frisk, search and interference with a recording device allegations made against him.
- PO Paulino has been a member of the service for six years. This is the first CCRB complaint made against him.
- PO Rodriguez has been a member of the service for three years. This is the first CCRB complaint made against her.

Findings and Recommendations

Identification of Subject Officer

- [§ 87(2)(b)] alleged that when he went to the 71st Precinct stationhouse to file his complaint, he spoke to a Hispanic female officer in her twenties who was sitting behind the front desk. This officer was in uniform. A review of the 71st Precinct's roll calls found that PO Jessica Rodriguez was assigned as the stationhouse's telephone switchboard operator. She was the only female officer listed on the roll call with a stationhouse assignment (See Board Review #05: 71st Precinct Roll Call). PO Rodriguez is a [§ 87(2)(b)]-old Hispanic female. [§ 87(2)(g)]

Allegations not pleaded

- **Abuse of Authority – Vehicle stop:** It is undisputed that PO Keane and PO Bravo pulled [§ 87(2)(b)] over. The officers stated that [§ 87(2)(b)] was stopped because he had made an illegal left turn onto Atlantic Avenue while driving southbound on Vanderbilt Avenue. PO Keane subsequently issued him a summons for this offense. [§ 87(2)(g)]

Allegation A – Abuse of Authority: On November 6, 2016, at the intersection of Atlantic Avenue and Waverly Avenue in Brooklyn, Police Officer Eric Bravo interfered with [§ 87(2)(b)]'s use of a recording device.

It is undisputed that PO Bravo took [§ 87(2)(b)]'s cell phone from his hand at some point during the interaction. It is also undisputed that [§ 87(2)(b)] initially refused to provide his license and registration to PO Bravo when asked. [§ 87(2)(b)] was subsequently taken to the 88th Precinct stationhouse, where PO Keane issued him two summonses.

[§ 87(2)(b)] was interviewed at the CCRB on November 21, 2016. He also answered follow-up questions via telephone on December 19, 2016 and January 30, 2017 (See Board Review #06-08:

§ 87(2)(b)'s Statements). He alleged that when PO Bravo first asked him for his license and registration, he refused to provide it. After PO Bravo asked him several more times, though, § 87(2)(b) provided both his license and his registration. § 87(2)(b) then asked PO Bravo and PO Keane if they were wearing body cameras. Both officers responded that they were not. § 87(2)(b) decided that if the officers were not documenting their interaction, then he would do so using his cell phone. § 87(2)(b) picked up his cell phone from his center console, intending to start recording their incident. Before he could start recording, PO Bravo told him to step out of his vehicle. § 87(2)(b) asked PO Bravo why he needed to exit. PO Bravo then opened § 87(2)(b)'s door, reached into the vehicle and took the phone from § 87(2)(b)'s hand. § 87(2)(b) did not ultimately have the opportunity to record the incident. § 87(2)(b) was subsequently pulled out of the vehicle and placed under arrest.

PO Bravo and PO Keane were interviewed at the CCRB on January 4, 2017 (See Board Review #09-10: MOS Statements). Both officers stated that § 87(2)(b) asked them if they were wearing body cameras at the start of their interaction, before he provided any documents to them. Both officers recalled that § 87(2)(b) was holding a cell phone during this interaction. They did not recall him attempting to record the officers with it. PO Bravo then asked § 87(2)(b) several times to provide his license and registration. § 87(2)(b) initially refused to give anything to the officers. He eventually gave them his driver's license, but refused to provide his vehicle registration. Since § 87(2)(b) did not provide the appropriate documentation, the officers decided to take him into custody and issue his summonses to him at the stationhouse. PO Bravo asked § 87(2)(b) to exit his vehicle. Once § 87(2)(b) was out, PO Bravo took § 87(2)(b)'s cell phone from his hand. He explained that he did so because individuals in police custody are not allowed to have phones. Both PO Bravo and PO Keane denied that § 87(2)(b)'s phone was taken from him before his arrest.

NYPD FINEST Message Re: Recording of Police Action by Public, which was issued on August 6, 2014, states that members of the public are legally allowed to record police interactions by video, unless the act of recording interferes with a police operation or threatens the safety of an officer or another member of the public (See Board Review #11: Legal Reference).

New York State Vehicle and Traffic Law §401.4 states that motorists must provide their driver's license and proof of their vehicle's registration to a police officer upon request. §1800 indicates that the failure to adhere to the provisions of the Vehicle and Traffic Law constitutes a violation (See Board Review #12-13: Legal Reference).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Abuse of Authority: On November 6, 2016, at the intersection of Atlantic Avenue and Waverly Avenue in Brooklyn, Police Officer Eric Bravo frisked § 87(2)(b)
Allegation C – Abuse of Authority: On November 6, 2016, at the intersection of Atlantic Avenue and Waverly Avenue in Brooklyn, Police Officer Eric Bravo searched § 87(2)(b)

It is undisputed that § 87(2)(b) was removed from his vehicle and taken into police custody. It is also undisputed that PO Bravo frisked him after he was removed from his vehicle.

§ 87(2)(b) stated that PO Bravo requested his license and registration, and that he provided both of these documents as requested. He was initially allowed to remain in his vehicle after providing these documents. He was only removed from his vehicle once he attempted to record the officers using his cell phone. Once PO Bravo removed § 87(2)(b) from his vehicle, PO Bravo frisked him by patting his chest, waist, pants pockets and legs. He then reached inside of § 87(2)(b)'s jacket and pants pockets. PO Bravo removed cash from § 87(2)(b)'s pants pockets, examined it, and then returned it to the pocket.

PO Bravo and PO Keane both confirmed that PO Bravo frisked § 87(2)(b) after he was removed from his vehicle. Both of them denied that PO Bravo reached into § 87(2)(b)'s pockets. Both officers stated that § 87(2)(b) was under arrest at the time because he had refused to provide his vehicle's registration to them. PO Bravo's frisk was conducted incident to § 87(2)(b)'s arrest. Neither officer cited any suspicion that § 87(2)(b) was armed at the time.

When making an arrest, an officer may search an individual incident to that arrest in order both to guarantee officer safety and to preserve any evidence that that individual might have with them. If an officer possesses probable cause to believe that an individual has committed a crime, but does not intend to place that individual under arrest, then the "search incident to arrest" doctrine does not apply. People v. Reid, 42 N.Y.3d 615 (2014) (See Board Review #14: Legal Reference).

§ 87(2)(g)

Allegation D – Abuse of Authority: On November 6, 2016, at the intersection of Atlantic Avenue and Waverly Avenue in Brooklyn, Police Officer Joel Paulino searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that PO Paulino entered § 87(2)(b)'s vehicle and drove it to the 88th Precinct stationhouse.

§ 87(2)(b) stated that when the officers drove him to the stationhouse, they informed him that his car would also be taken into custody, as it could not be left where § 87(2)(b) had parked it along Atlantic Avenue. § 87(2)(b) saw PO Paulino enter his vehicle's driver's seat. He did not see PO Paulino enter or reach into any other areas of the vehicle at that time. § 87(2)(b) did not see any other officers enter or search the vehicle at his arrest location. When he was later released from custody, he found that his vehicle had been parked by the 88th Precinct stationhouse. § 87(2)(b) noted that a phone cable that he had plugged into his vehicle's dashboard had been pulled out and placed on one of the front seats. § 87(2)(b) took this to mean that officers had searched the interior of his vehicle while he was in custody. He did not see any officers doing so himself.

PO Paulino was interviewed at the CCRB on January 12, 2017 (See Board Review #15: PO Paulino's Statement). He explained that § 87(2)(b)'s vehicle was removed to the stationhouse in order to secure it for § 87(2)(b) in the event that he was taken into custody, rather than released with a summons as was originally intended. PO Paulino entered the vehicle and sat in the driver's seat. He did not enter any other areas. PO Paulino noted that there were several bags inside of the vehicle. He did not recall what was in the bags. He denied handling any of the bags. PO Paulino was unaware of any cords emerging from the center console. He denied manipulating any such cords. When PO Paulino arrived at the stationhouse, he gave the vehicle's keys to PO Keane and PO Bravo. He had no further interaction with the vehicle. PO Paulino was not aware of any searches that were conducted on the vehicle at the stationhouse.

Sgt. Durets was interviewed at the CCRB on January 27, 2017 (See Board Review #16: Sgt. Durets' Statement). Sgt. Durets', PO Bravo's and PO Keane's statements were generally consistent with PO Paulino's. They all stated, however, that § 87(2)(b)'s vehicle was transported to the stationhouse because the vehicle could not be left along Atlantic Avenue, which is a busy street. All of them stated that PO Paulino was the only officer who entered the vehicle. They denied that any search of the vehicle was conducted either along Atlantic Avenue or at the 88th Precinct stationhouse. They denied that any items were removed from the vehicle, and denied that any officer handled any cords coming from the center console.

An officer may conduct a limited search of the interior of a vehicle in order to guarantee their safety while driving the vehicle. People v. Dickens, 218 A.D.2d 584 (App. Term, 1st Dept., 1995) (See Board Review #17: Legal Reference).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)

Allegation E – Abuse of Authority: On November 7, 2016, at the 71st Precinct stationhouse, Police Officer Jessica Rodriguez did not process § 87(2)(b)'s complaint regarding officers.

§ 87(2)(b) stated that after he was released from the 88th Precinct stationhouse, he decided to file a complaint about the incident. § 87(2)(b) traveled to the 67th Precinct stationhouse and one other unidentified stationhouse in Brooklyn on the night of November 6, 2016, but he ultimately decided against filing his complaint at either of them. No officers took any actions to prevent him from filing his complaint at these stationhouses. On November 7, 2016, § 87(2)(b) traveled to the 71st Precinct stationhouse. He approached PO Rodriguez, who was sitting behind the front desk. § 87(2)(b) told PO Rodriguez that he wanted to file a complaint. He stated that he had been pulled over by officers, and that they had refused to explain why they stopped him. PO Rodriguez replied that the officers did not have to explain why they stopped him. § 87(2)(b) then asked PO Rodriguez how he could file a complaint against the officers. PO Rodriguez told § 87(2)(b) “Oh, they have the right to do that.” She then pointed § 87(2)(b) to a nearby poster that listed the CCRB’s telephone number. § 87(2)(b) took a picture of the poster and then left the stationhouse. He had no further conversation with PO Rodriguez or any other officer. § 87(2)(b) was not provided with a civilian complaint report, or given the opportunity to file his complaint at the stationhouse itself.

PO Rodriguez was interviewed at the CCRB on January 20, 2017 (See Board Review #18: PO Rodriguez’s Statement). PO Rodriguez did not recall the incident. She did not recognize § 87(2)(b)'s name or photograph. She did not recall any civilians attempting to file a complaint against an officer on November 7, 2016, including about any incidents involving a vehicle stop. She did not recall providing the CCRB’s contact information to any civilians. The 71st Precinct command log was not obtained, so it is unknown whether there are any entries in the command log documenting § 87(2)(b)'s visit.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date